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LEGISLATION BRIEF

"In stark contrast to a decade ago, the ruling majority in Sacramento has refused to heed the call for improvements to the business climate or incentives for job creation. Instead, Sacramento has spent the last four years sending a strong message that California is hostile to business."

-Chuck Poochigian

DECEMBER 10, 2002

Capitol Update

Proposal Addresses Budget Crisis
Recent Job-Killer Legislation to be Suspended

In an effort to address the underlying causes of California's budget crisis, Senator Chuck Poochigian (R-Fresno) today submitted legislation aimed at improving California's grim economic climate by suspending recently passed, anti-business legislation. The legislation would be suspended until the Governor issues a proclamation that declares that the California economy has fully recovered from the recession that began in 2000.

Additionally, Senator Poochigian submitted legislation to ensure the manufacturers' income tax credit (MIC) is not lost due to the state's drastic loss of manufacturing jobs.

The increased costs of doing business in California are in large part the result of the onerous legislation enacted in recent years and will be worsened by legislation that will take effect on January 1, 2003.

The State of California is experiencing a sustained economic downturn. According to the Legislative Analyst's Office, California has lost over 230,000 manufacturing jobs in just the last two years.

"We applaud Senator Poochigian's proposal which will make California more competitive for jobs and investment," said Larry McCarthy, President of the California Taxpayers Association. "Senator Poochigian's effort recognizes that private-sector job growth is California's largest revenue increase opportunity. The enormous growth in tax revenue in the 1990s directly related to growth in jobs and economic investment."

While other states are facing fiscal pressures, California's taxpayers shoulder a disproportionate share of the fiscal burden. State governments faced a nationwide combined budget gap of more than $40 billion in 2002 – California's $23 billion budget deficit last year represented half of the combined deficits of all states, with no relief in sight.

According to a Milken Institute study conducted in early 2002, California has the third highest overall cost of doing business in the United States, 32 percent above the national average. And California's costs of doing business are the highest in the West.

The bills will be formally introduced in January. Under Senate Rules, proposals presented during Extraordinary Session must first pass through the Senate Rules Committee. Such action is pending.

Bills Suspended Until the End of the Recession

AB 749, Chapter 6 of 2002
Passed in early 2002, this bill increased workers' compensation insurance rates by $3.5 billion, according to the Workers' Compensation Insurance Rating Board. The bump represents a 23 percent increase in rates and makes the most expensive workers' compensation system in the nation even more costly. The exorbitant rates are being cited throughout the state as oppressive and a leading reason to move jobs out of California to nearby, less costly states. Moreover, the rate increase, which equates to a multi-billion business tax increase, hurts small business significantly.

Suspension of this bill will not only reduce the burden on businesses struggling during this recession, but has the added benefit of reducing the tens of millions of dollars in costs that local governments and the state will bear.

AB 2509, Chapter 298 of 2002
Passed in 2002, this bill complicates California labor law and increases employers' costs by allowing local jurisdictions to establish and enforce local versions of labor laws, including employment-related rules, fines and penalties, on state-funded projects. In the end, competing entities must abide by conflicting local wage and labor laws, leaving employers with a tangle of compliance problems and new legal liabilities. Due to the many differing local regulations, this could seriously harm California's competitiveness with other states and nations by complicating the entire process and exposing business to more potential lawsuits.

SB 975, Chapter 938 of 2001
This bill requires prevailing wages be paid on any private project that receives assistance from the state. Since the bill does not specifically define assistance, it has stymied development (and, in turn, job creation) throughout California because of the potential for such a broad and overarching application. It effectively drives up the cost to taxpayers of public works projects, as prevailing wages are mandated higher than market-rate wages – the higher labor costs range from five to 40 percent more. The only exemption under SB 975 is extremely narrow to only include low-to-moderate income housing projects built within Redevelopment Agency zones. Recognizing the harm caused by imposition of SB 975, another very narrow exemption was added by legislation in 2002 to include self-help housing projects completed by non-profits.

AB 2816, Chapter 1098 of 2002
This measure requires temporary employee placement services to provide workers' compensation insurance based on the modification rate of their client and not the job safety record of the employment company. Ostensibly, this forces temporary employment agencies to pay higher workers' compensation rates based on another firm's rates and experience with injuries. This bill makes the use of temporary employment firms by contractors unattractive or virtually impossible to use.

SB 1156 / AB 2596, Chapters 1145/1146 of 2002
These bills establish a procedure, which is the equivalent of binding arbitration (called "mediation"), to address situations where unions and employers in the agriculture industry are unable to reach a collective bargaining agreement within 90 days of the certification of a union as an exclusive representative of agricultural workers.

AB 60, Chapter 134 of the 1999-2000 Legislative Session
This bill eliminated the ability for employers and employees to use flexible schedules. AB 60 mandates overtime pay after 8-hours of work in a day, instead of the overtime after 40-hours in a week. Prior to the passage of AB 60, many California employees and their employers were finally able to create

alternative work schedules, including the very popular four-day work week. The provisions of this measure have created undue burdens on both employees and business owners and add to the state's anti-business climate.

Manufacturers' Investment Tax Credit

The manufacturers' investment tax credit (MIC) was established in the recession of the 1990s in order to spur economic growth, especially in the manufacturing sector. The MIC provides a 6-percent tax credit on the purchase of manufacturing equipment. By promoting the purchase of heavy manufacturing equipment, long-term investment in the state was encouraged.

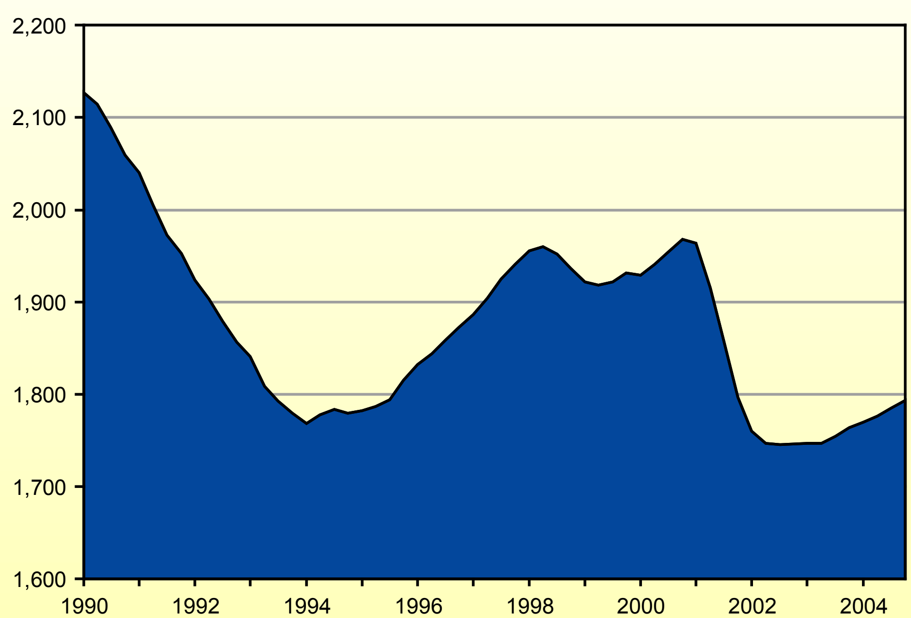
The purpose of the legislation was to encourage new job creation, so the enabling legislation included a provision that made the MIC inoperative if new jobs were not created (based on January 1, 1994). However, the provision did not foresee the possibility that California could lose significant numbers of jobs after an initial job creation boom. Unfortunately, this is what happened in California – the MIC helped stimulate the job creation that occurred in the 1990s, but other factors which discouraged job creation led to a precipitous decline in manufacturing jobs in the last two years.

Specifically, current law states that the MIC will become inoperative if the number of manufacturing jobs (excluding aerospace jobs) does not exceed by 100,000 jobs the total manufacturing employment (excluding aerospace jobs) in this state on January 1, 1994. According to the Legislative Analyst's Office, the state had 1.537 million manufacturing jobs on January 1, 1994 and 1.687 million such jobs on January 1, 2002. The state has been losing jobs in that sector rapidly. It is likely that the January 2003 calculation will result in the repeal of the MIC at a time when the state cannot afford to lose such an important job creation tool .

Figure 3

California Manufacturing Hit Hard By Economic Slowdown

(Thousands of Jobs)



Source: LAO